

REMARKS

This is in response to the Office Action mailed on August 26, 2004, and the references cited therewith.

Claims 1, 6, 15, 19, 23, 27, and 30 are amended; as a result, claims 1-39 are now pending in this application.

§112 Rejection of the Claims

Claims 1-39 were rejected under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

At the outset, Applicants respectfully disagree with the Examiner's conclusion that the phrase "in the payment facilitator system" is new matter. First, Applicants would like to direct the Examiner's attention to a variety of references within the originally filed application where the phrase "payment facilitator computer" and "payment facilitator system" are used interchangeably. For example, the Examiner's attention is directed to the originally filed specification, page 6, lines 16 and 20; and page 8, line 21; FIG. 3, reference blocks 302, 304, 306, 308, 310, 314, 316, 318, and 320; *etc.*

The specification is replete with descriptions of the payment facilitator and its operation. For example, on page 8, lines 26-27 it is stated that the "payment facilitator computer 200 includes payment processing software 202." *See*, also FIGS. 1 and 2 and their corresponding detailed discussion. Accordingly, the Applicants respectfully assert that the present rejection is misplaced or is an apparent oversight on the part of the Examiner and should be withdrawn.

However, in an effort to further correct any confusion that the Examiner may still have with regard to the use of the term "system," Applicants have amended the claims to remove that term, such that now the claims simply read a "payment facilitator" or a "payment facilitator computer." There should be no ambiguity as to these phrases, since their usages and descriptions are replete throughout the originally filed specification.

Accordingly, the Sec. 112 rejections are no longer appropriate and should be withdrawn.

§103 Rejection of the Claims

Claims 1-39 were rejected under 35 USC § 103(a) as being not patentable over Lee et al. (U.S. 2002/0099649) in view of Anderson et al. (U.S. 5,884,289). It is of course fundamental that in order to sustain an obviousness rejection each and every step or element in the rejected claims must be taught or suggested in the proposed combination of references.

Initially, Applicants incorporate by reference herein prior remarks presented by the Applicants with respect to the Lee and Anderson references.

The Examiner seems to have acknowledged Applicants prior arguments that indicate that neither Lee nor Anderson explicitly teach a payment facilitator that makes decisions regarding whether a transaction is to be considered fraudulent or not fraudulent. This is evinced by the new obviousness rejection and the fact that the Examiner is now attempting to suggest that this missing teaching is suggested or inherent in the references or in the art. Applicants respectfully disagree with this conclusion.

Applicants' invention deploys a "payment facilitator" and not a conventional credit card processing facility. The payment facilitator is clearly and distinctly described in the original specification; it is capable, *inter alia*, of *facilitating* a payment transaction. *Emphasis added*. Thus, the payment facilitator is not the financial institution, such as a credit card company. It is an intermediary. This is an important distinction and one that was not obvious at the time of Applicants filing in the industry.

Online transactions are commonplace. But, prior to Applicants' invention the ability for an average consumer to be a seller (merchant) in the online environment was severely circumscribed and difficult to achieve with credit card processing or debit processing. This was so, because in order for an average consumer to acquire payment in real-time from a seller, the consumer had to establish a merchant account with a credit card company in order to be capable of receiving credit card payments from buyers. Moreover, the consumer had to acquire specific interfaces or use specific devices in order to consummate online transactions with potential buyers. Furthermore, for each different type of credit card or payment source that potential buyers could offer, the consumer needed different merchant accounts, interfaces, and/or devices in order to be cable of accepting payment. Thus, in the traditional case, becoming an online

merchant was not an easy task and was not something that could be initially set up in any kind of reasonable time frame.

A payment facilitator eliminates this work and is not obvious and was not obvious at the time of Applicants' filing. The payment facilitator credits a seller's account and debits a buyer's account from a financial institution. Thus, the payment facilitator opens the Internet up to nearly every user to participate as both a buyer and a seller, because it *facilitates* payments and credits from a variety of financial institutions. *Emphasis added.* This is not and was not obvious from traditional payment services, which have traditionally been the financial institutions themselves.

Correspondingly, Applicants respectfully disagree with the Examiner's assertion that traditional credit card processing may be synonymously viewed as Applicants' payment facilitator. Even with the Examiner's interpretation each different financial institution that may check for fraud during a transaction would need to be separately interfaced to a merchant. Accordingly, the merchant would need several different interfaces because in all probability several different financial institutions would be needed by a single merchant. All this redundancy is eliminated with the payment facilitator. Moreover, it is improper hindsight to now suggest that the features of Applicants payment facilitator are obvious because this could only be asserted after reading and comprehending Applicants' disclosure.

In summary, financial institutions and their automated payment services are not payment facilitators, they are in fact payment sources. The distinction is significant and appears to have been missed by the Examiner. A payment facilitator is capable of interfacing disparate payment sources to a single merchant or seller and capable of providing centralized fraud detection for any payment source that may be presented by a potential buyer. This cannot be done with Lee or Anderson or with the Examiner's proposed combination of Lee and Anderson. Moreover, this was not obvious at the time of Applicants' filing in the industry.

Accordingly, Applicants respectfully assert that the rejections with respect to the claims should be withdrawn and the claims allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22 day of December, 2004.

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